

**Judgment of the General Court of 22 January 2013 —  
Greece v Commission**

(Case T-46/09) <sup>(1)</sup>

*(EAGGF — ‘Guarantee’ Section — Expenditure excluded from financing — Processing of citrus fruits, cotton, beef and olive oil — Financial audit — Key checks — Proportionality — Recurrence — Obligation to state reasons)*

(2013/C 63/34)

Language of the case: Greek

**Parties**

*Applicant:* Hellenic Republic (represented by: V. Kontolaimos, I. Chalkias, S. Charitaki and S. Papaioannou, acting as Agents)

*Defendant:* European Commission (represented by: A. Markoulli and H. Tserépa-Lacombe, acting as Agents, assisted by N. Koro-giannakis)

**Re:**

Application for annulment of Commission Decision 2008/960/EC of 8 December 2008 excluding from Community financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF) and under the European Agricultural Guarantee Fund (EAGF) (OJ 2008 L 340, p. 99), in so far as it excludes from Community financing certain expenditure incurred by the Hellenic Republic.

**Operative part of the judgment**

*The Court:*

1. Dismisses the application;
2. Orders the Hellenic Republic to pay the costs.

<sup>(1)</sup> OJ C 90, 18.4.2009.

**Judgment of the General Court of 17 January 2013 —  
Reber v OHIM — Wedl & Hofmann (Walzer Traum)**

(Case T-355/09) <sup>(1)</sup>

*(Community trade mark — Opposition proceedings — Application for figurative Community mark Walzer Traum — Earlier national word mark Walzertraum — Lack of genuine use of the earlier mark — Article 42(2) and (3) of Regulation (EC) No 207/2009 — Equal treatment)*

(2013/C 63/35)

Language of the case: German

**Parties**

*Applicant:* Reber Holding GmbH & Co. KG (Bad Reichenhall, Germany) (represented by: O. Spuhler and M. Geitz, lawyers)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: G. Schenider, acting as Agent)

*Other party to the proceedings before the Board of Appeal of OHIM intervening before the General Court:* Wedl & Hofmann GmbH (Mils/Hall in Tirol, Austria) (represented by: T. Raubal, lawyer)

**Re:**

Action brought against the decision of the Fourth Board of Appeal of OHIM of 9 July 2009 (Case R 623/2008-4) relating to opposition proceedings between Reber Holding GmbH & Co. KG and Wedl & Hofmann GmbH.

**Operative part of the judgment**

*The Court:*

1. Dismisses the application;
2. Orders Reber Holding GmbH & Co. KG to pay the costs.

<sup>(1)</sup> OJ C 282, 21.11.2009.

**Judgment of the General Court of 17 January 2013 —  
Gollnisch v Parliament**

(Joined Cases T-346/11 and T-347/11) <sup>(1)</sup>

*(Privileges and immunities — Member of the European Parliament — Decision to waive immunity — Activity unconnected with the duties of a Member of the European Parliament — Procedure for waiving immunity — Decision not to defend the privileges and immunities — No longer any interest in bringing proceedings — No need to adjudicate)*

(2013/C 63/36)

Language of the cases: French

**Parties**

*Applicant:* Bruno Gollnisch (Limonest, France) (represented by: G. Dubois, lawyer)

*Defendant:* European Parliament (represented by: R. Passos, D. Moore and K. Zejdová, acting as Agents)

**Re:**

First, action for annulment of a decision adopted by the European Parliament on 10 May 2011 to waive the immunity of the applicant, and application for compensation for the non-material damage suffered by the applicant in connection therewith and, second, action for annulment of the decision not to defend the immunity of the applicant, adopted by the European Parliament on 10 May 2011, and application for compensation for the non-material damage suffered by the applicant in connection therewith.

**Operative part of the judgment**

*The Court:*

1. dismisses the action for annulment and the application for compensation in Case T-346/11;
2. rules that there is no longer any need to adjudicate on the action for annulment in Case T-347/11;

3. dismisses the application for compensation in Case T-347/11;
4. orders Bruno Gollnisch to pay the costs, including those relating to the applications for interim measures in Cases T-346/11 and T-347/11.

<sup>(1)</sup> OJ C 252, 27.8.2011.

**Judgment of the General Court of 17 January 2013 — Solar-Fabrik v OHIM (Premium XL and Premium L)**

(Joined Cases T-582/11 and T-583/11) <sup>(1)</sup>

*(Community trade mark — Applications for the Community word marks Premium XL and Premium L — Absolute grounds for refusal — Lack of distinctive character — Article 7(1)(b) of Regulation (EC) No 207/2009)*

(2013/C 63/37)

Language of the case: German

**Parties**

*Applicant:* Solar-Fabrik AG für Produktion und Vertrieb von solartechnischen Produkten (Freiburg im Breisgau, Germany) (represented by: M. Douglas, lawyer)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: D. Walicka, acting as Agent)

**Re:**

Two actions brought against two decisions of the First Board of Appeal of OHIM of 1 September 2011 (Case R 245/2011-1 and Case R 246/2011-1 respectively), concerning applications for registration as Community trade marks of the word sign Premium XL and the word sign Premium L respectively

**Operative part of the judgment**

*The Court:*

1. Joins Cases T-582/11 and T-583/11 for the purposes of the judgment;
2. Dismisses the actions;
3. Orders Solar-Fabrik AG für Produktion und Vertrieb von solartechnischen Produkten to pay the costs.

<sup>(1)</sup> OJ C 25, 28.1.2012.

**Judgment of the General Court of 18 January 2013 — FunFactory v OHIM (Vibrator)**

(Case T-137/12) <sup>(1)</sup>

*(Community trade mark — Application for a three-dimensional trade mark — Vibrator — Absolute ground for refusal — Lack of distinctive character — Article 7(1)(b) of Regulation (EC) No 207/2009 — Obligation to state reasons — The first sentence of Article 75 of Regulation No 207/2009 — Rights of the defence — The second sentence of Article 75 of Regulation No 207/2009)*

(2013/C 63/38)

Language of the case: German

**Parties**

*Applicant:* FunFactory GmbH (Brême, Germany) (represented by: K.-D. Franzen, lawyer)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: G. Schneider, acting as Agent)

**Re:**

Action brought against the decision of the Fourth Board of Appeal of OHIM of 19 January 2012 (Case R 1436/2011-4) concerning an application for registration of a three-dimensional sign representing a vibrator.

**Operative part of the judgment**

*The Court:*

1. Dismisses the application;
2. Orders FunFactory GmbH to pay the costs.

<sup>(1)</sup> OJ C 157, 2.6. 2012.

**Action brought on 15 October 2012 — Stromberg Menswear v OHIM — Leketoy Stormberg Inter (STORMBERG)**

(Case T-451/12)

(2013/C 63/39)

Language in which the application was lodged: English

**Parties**

*Applicant:* Stromberg Menswear Ltd (Leeds, United Kingdom) (represented by: A. Tsoutsanis, lawyer, and C. Tulley, Solicitor)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)

*Other party to the proceedings before the Board of Appeal:* Leketoy Stormberg Inter AS (Kristiansand S, Norway)

**Form of order sought**

The applicant claims that the Court should:

— Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 3 August 2012 in case R 389/2012-4;